

EXHIBIT 21

HIGHLY CONFIDENTIAL

Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES,) 1:23-cv-00108-LMB-JFA
et al.,)
)
 Plaintiffs,)
)
 vs.)
)
 GOOGLE LLC,)
)
 Defendants.)

- HIGHLY CONFIDENTIAL -

VIDEOTAPED 30(b)(6) DEPOSITION OF
UNITED STATES DEPARTMENT OF VETERANS AFFAIRS

through the testimony of

KOBY SMITH

August 31, 2023

4:09 p.m.

Reported by: Bonnie L. Russo
Job No. CS6074125

Veritext Legal Solutions

800-567-8658

973-410-4098

HIGHLY CONFIDENTIAL

<p style="text-align: right;">Page 2</p> <p>1 Videotaped 30(b)(6 Deposition of United States</p> <p>2 Department of Veterans Affairs through the</p> <p>3 testimony of Koby South held at:</p> <p>4</p> <p>5</p> <p>6 Paul Weiss Rifkind Wharton & Garrison, LLP</p> <p>7 2001 K Street, N.W.</p> <p>8 Washington, D.C.</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18 Pursuant to Notice, when were present on behalf</p> <p>19 of the respective parties:</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 4</p> <p>1 I N D E X</p> <p>2 EXAMINATION OF KOBY SOUTH PAGE</p> <p>3 BY MS. MORGAN 7</p> <p>4</p> <p>5</p> <p>6</p> <p>7 EXHIBITS</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES:</p> <p>2 On behalf of the Plaintiffs:</p> <p>3 SEAN CARMAN, ESQUIRE</p> <p>4 VICTOR LIU, ESQUIRE</p> <p>5 ALVIN CHU, ESQUIRE</p> <p>6 KATHERINE E. CLEMONS, ESQUIRE</p> <p>7 UNITED STATES DEPARTMENT OF JUSTICE</p> <p>8 450 Fifth Street, N.W., Suite 700</p> <p>9 Washington, D.C. 20530</p> <p>10 sean.carman@usdoj.gov</p> <p>11 victor.liu@usdoj.gov</p> <p>12 alvin.chu@usdoj.gov</p> <p>13 katherine.clemons@usdoj.gov</p> <p>14</p> <p>15 On behalf of the Defendant:</p> <p>16 ERIN J. MORGAN, ESQUIRE</p> <p>17 PAUL, WEISS, RIFKIND,</p> <p>18 WHARTON & GARRISON, LLP</p> <p>19 1285 Avenue of the Americas</p> <p>20 New York, New York 10019</p> <p>21 ejmorgan@paulweiss.com</p> <p>22 -and-</p> <p>HEATHER MILLIGAN, ESQUIRE</p> <p>ANNELISE CORRIVEAU, ESQUIRE</p> <p>MARTHA L. GOODMAN, ESQUIRE (Via Remote)</p> <p>PAUL, WEISS, RIFKIND,</p> <p>WHARTON & GARRISON, LLP</p> <p>2001 K Street, N.W.</p> <p>Washington, D.C. 20006</p> <p>hmilligan@paulweiss.com</p> <p>acorriveau@paulweiss.com</p> <p>mgoodman@paulweiss.com</p> <p>Also Present:</p> <p>Orson Braithwaite, Videographer</p> <p>Laura Reass, Department of Veterans Affairs</p>	<p style="text-align: right;">Page 5</p> <p>1 P R O C E E D I N G S</p> <p>2 (4:09 p.m.)</p> <p>3</p> <p>4 THE VIDEOGRAPHER: We are going on</p> <p>5 the record at 4:09 p.m. on August 31, 2023.</p> <p>6 This is Media Unit 1 of the</p> <p>7 video-recorded deposition of Mr. Koby South in</p> <p>8 the matter of United States, et al., versus</p> <p>9 Google LLC filed in the United States District</p> <p>10 Court, Eastern District of Virginia, Alexandria</p> <p>11 Division, Case No. 1:23-cv-00108-LMB-JFA.</p> <p>12 My name is Orson Braithwaite</p> <p>13 representing Veritext Legal Solutions, and I am</p> <p>14 the videographer. The court reporter is Bonnie</p> <p>15 Russo from the firm Veritext Legal Solutions.</p> <p>16 Counsel will now state their</p> <p>17 appearances and affiliations for the record.</p> <p>18 MS. MORGAN: I'm Erin Morgan. I'm</p> <p>19 from the law firm Paul Weiss, and we represent</p> <p>20 Google. I am here with my two colleagues,</p> <p>21 Heather Milligan and Annelise Corriveau.</p> <p>22 MR. CARMAN: Sean Carman for the</p>

HIGHLY CONFIDENTIAL

<p style="text-align: right;">Page 22</p> <p>1 contract is not buying that paid media," are</p> <p>2 you referring to the District Communications</p> <p>3 Group buying paid media from Google?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And does the District</p> <p>6 Communications Group invoice the Office of</p> <p>7 Public Health within the Department of Veterans</p> <p>8 Affairs for the purchase of paid media from</p> <p>9 Google?</p> <p>10 MR. CARMAN: Objection. Form.</p> <p>11 THE WITNESS: I would assume, yes.</p> <p>12 BY MS. MORGAN:</p> <p>13 Q. And does the Office of Public Health</p> <p>14 within the Department of Veterans Affairs pay</p> <p>15 the District Communications Group for the paid</p> <p>16 media purchases that the District</p> <p>17 Communications Group makes from Google in</p> <p>18 connection with the Airborne Hazards and Open</p> <p>19 Burn Pit Registry campaign?</p> <p>20 MR. CARMAN: Object to form.</p> <p>21 THE WITNESS: I lost you on that</p> <p>22 one.</p>	<p style="text-align: right;">Page 24</p> <p>1 BY MS. MORGAN:</p> <p>2 Q. Does the District Communications</p> <p>3 Group ever transfer funds directly to Google --</p> <p>4 MR. CARMAN: Objection --</p> <p>5 BY MS. MORGAN:</p> <p>6 Q. -- for purchases of paid media?</p> <p>7 MR. CARMAN: Objection to form and</p> <p>8 calls for a legal conclusion.</p> <p>9 THE WITNESS: Yeah. I think that --</p> <p>10 I would say can you -- the way you asked it,</p> <p>11 no.</p> <p>12 BY MS. MORGAN:</p> <p>13 Q. Does the District Communications</p> <p>14 Group -- you testified that District</p> <p>15 Communications -- or, sorry. That the Office</p> <p>16 of Public Health transfers funds to the</p> <p>17 District Communications Group.</p> <p>18 Do you remember that?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. What did you understand</p> <p>21 "transfer of funds" to mean when you answered</p> <p>22 that question?</p>
<p style="text-align: right;">Page 23</p> <p>1 BY MS. MORGAN:</p> <p>2 Q. Does the Office of Public Health pay</p> <p>3 Direct Communications Group --</p> <p>4 A. District.</p> <p>5 Q. Sorry. District Communications</p> <p>6 Group for paid media purchases that the</p> <p>7 District Communications Group makes from Google</p> <p>8 in connection with the Airborne Hazards and</p> <p>9 Open Burn Pit Registry campaign?</p> <p>10 A. I wouldn't categorize it that way.</p> <p>11 They are not paying them for it. It's a</p> <p>12 transfer of funds in that it's being passed</p> <p>13 through -- it's being passed through the</p> <p>14 contractor to whatever ad tech platform the ads</p> <p>15 are being purchased from. You're not paying</p> <p>16 the District Communications Group with the paid</p> <p>17 media dollars. You're passing it through.</p> <p>18 Q. Does the Office of Public Health</p> <p>19 transfer funds to the District Communications</p> <p>20 Group for purchases of paid media from Google?</p> <p>21 MR. CARMAN: Object to form.</p> <p>22 THE WITNESS: Yes.</p>	<p style="text-align: right;">Page 25</p> <p>1 A. They are moving it from one place to</p> <p>2 another place.</p> <p>3 Q. Does the Office of Public Health</p> <p>4 transfer funds or move funds from the Office of</p> <p>5 Public Health into Google with no middleman?</p> <p>6 A. No.</p> <p>7 MR. CARMAN: I meant to object to</p> <p>8 the form to that last question. Sorry.</p> <p>9 BY MS. MORGAN:</p> <p>10 Q. In your preparation did you prepare</p> <p>11 to testify about the Veterans Health</p> <p>12 Administration Recruitment Marketing and</p> <p>13 Advertising campaign?</p> <p>14 A. Yes.</p> <p>15 Q. What office within the VA is in</p> <p>16 charge of that campaign?</p> <p>17 A. I think it's VHA workforce</p> <p>18 management.</p> <p>19 Q. Who did you talk to in preparing to</p> <p>20 testify about that campaign?</p> <p>21 A. Darren Sherrard.</p> <p>22 Q. Who is Darren Sherrard?</p>

7 (Pages 22 - 25)

HIGHLY CONFIDENTIAL

Page 26	Page 28
<p>1 A. I don't know his exact title. He is</p> <p>2 a project program manager for workforce</p> <p>3 recruiting.</p> <p>4 Q. Is he the contracting officer for</p> <p>5 that campaign?</p> <p>6 A. No.</p> <p>7 Q. Did you talk to the contracting</p> <p>8 officer for that campaign?</p> <p>9 A. I'm not sure it was the exact</p> <p>10 contracting officer for that campaign.</p> <p>11 Q. Did you talk to anyone besides</p> <p>12 Darren Sherrard.</p> <p>13 A. There were two other people on that</p> <p>14 call. I don't actually remember their names.</p> <p>15 Q. Are you familiar with Aptive</p> <p>16 Resources LLC?</p> <p>17 A. Yes.</p> <p>18 Q. What is Aptive Resources LLC?</p> <p>19 A. They are a service, disabled</p> <p>20 veteran-owned, small business, woman-owned,</p> <p>21 small business that provides boutique strategic</p> <p>22 communication products and services to</p>	<p>1 Resources purchase media to support the</p> <p>2 Veterans Health Administration Recruitment</p> <p>3 Marketing and Advertising Campaign?</p> <p>4 MR. CARMAN: Object to form and</p> <p>5 foundation.</p> <p>6 THE WITNESS: I would say again</p> <p>7 under that contract the government is</p> <p>8 authorizing Aptive Resources to securitize</p> <p>9 advertisements in the pursuit of recruiting</p> <p>10 hard-to-find, hard to -- hard-to-recruit</p> <p>11 healthcare professionals at the direction of</p> <p>12 the United States Government.</p> <p>13 BY MS. MORGAN:</p> <p>14 Q. Does Aptive Resources secure --</p> <p>15 secure or purchase media from Google in</p> <p>16 connection with the Veterans Health</p> <p>17 Administration Recruitment Marketing and</p> <p>18 Advertising Campaign?</p> <p>19 MR. CARMAN: Objection. Form.</p> <p>20 Foundation.</p> <p>21 THE WITNESS: I would say that</p> <p>22 Aptive secures paid advertising for the United</p>
Page 27	Page 29
<p>1 government agencies and corporations and stuff.</p> <p>2 Q. Does Aptive Resources have a -- a</p> <p>3 contract with the VHA in connection with the</p> <p>4 Veterans Health Administration Recruitment</p> <p>5 Marketing and Advertising Campaign?</p> <p>6 A. Yes.</p> <p>7 Q. What does that contract cover? What</p> <p>8 services are provided under that contract?</p> <p>9 A. It's a broad contract to secure and</p> <p>10 recruit hard-to-reach healthcare professionals</p> <p>11 in a nutshell.</p> <p>12 Q. Does that contract -- is that a</p> <p>13 firm-fixed-price contract?</p> <p>14 A. Yes.</p> <p>15 Q. Under that contract is Aptive</p> <p>16 Resources LLC responsible for developing media</p> <p>17 plans for the Veterans Health Administration</p> <p>18 Recruitment Marketing and Advertising Campaign?</p> <p>19 MR. CARMAN: Objection to form.</p> <p>20 THE WITNESS: Yes.</p> <p>21 BY MS. MORGAN:</p> <p>22 Q. Under that contract does Aptive</p>	<p>1 States Government under the bounds of the</p> <p>2 contract.</p> <p>3 BY MS. MORGAN:</p> <p>4 Q. Do you know if it secures paid</p> <p>5 advertising under that contract from Google?</p> <p>6 MR. CARMAN: Objection. Form.</p> <p>7 Foundation.</p> <p>8 BY MS. MORGAN:</p> <p>9 A. As I recall, I think it does.</p> <p>10 Q. Do you know what Google products it</p> <p>11 uses? Does it use any Google ad tech products?</p> <p>12 A. I don't recall that the -- the</p> <p>13 information I collected cited any specific</p> <p>14 Google ad tech products that were used.</p> <p>15 Q. And are you able to name any Google</p> <p>16 ad tech products that are used in connection</p> <p>17 with the Veterans Health Administration</p> <p>18 Recruitment Marketing and Advertising Campaign?</p> <p>19 MR. CARMAN: Objection. Form.</p> <p>20 THE WITNESS: I am not.</p> <p>21 BY MS. MORGAN:</p> <p>22 Q. Did you ask anyone what Google</p>

8 (Pages 26 - 29)

HIGHLY CONFIDENTIAL

Page 30	Page 32
<p>1 products were used in connection with that</p> <p>2 campaign as you were preparing to testify on</p> <p>3 behalf of the Department of Veterans Affairs?</p> <p>4 A. Again, we asked specifically about</p> <p>5 ad tech products, not Google ad tech products.</p> <p>6 And once again it was -- in this instance</p> <p>7 Darren Sherrard referenced making decisions on</p> <p>8 how their paid media is authorized and spent</p> <p>9 based on the populations that they are pursuing</p> <p>10 as opposed to the processes or products that</p> <p>11 are used.</p> <p>12 So what's going to work best for me</p> <p>13 to recruit a bunch of nurses? Is it going to</p> <p>14 be LinkedIn, or is it going to be banner and</p> <p>15 badge ads? So they're more concerned about the</p> <p>16 results as opposed to the mechanism for getting</p> <p>17 there, which is pretty similar for most</p> <p>18 campaigns of this nature at the Department of</p> <p>19 Veterans Affairs. We are looking for results</p> <p>20 and performance as opposed to dictating exactly</p> <p>21 what ad tech products an agency must use.</p> <p>22 Q. So am I correct in understanding</p>	<p>1 Health, and the ad tech providers that -- from</p> <p>2 whom the District Communications Group secures</p> <p>3 media.</p> <p>4 Do you remember those questions that</p> <p>5 we were just going through a few minutes ago?</p> <p>6 A. Uh-huh. Yes.</p> <p>7 Q. Do you know whether Aptive Resources</p> <p>8 buys any kind of media space from Google in</p> <p>9 connection with the Veterans Health</p> <p>10 Administration Recruitment Marketing and</p> <p>11 Advertising Campaign?</p> <p>12 MR. CARMAN: Object to form and</p> <p>13 foundation.</p> <p>14 THE WITNESS: Again, I wouldn't</p> <p>15 characterize it as Aptive buying advertising</p> <p>16 products directly. They are -- again, they are</p> <p>17 operating under the approval of the United</p> <p>18 States Government and the paid media plan and</p> <p>19 purchasing or securing advertising at the</p> <p>20 direction of the VA program manager.</p> <p>21 BY MS. MORGAN:</p> <p>22 Q. Do you know whether media is</p>
Page 31	Page 33
<p>1 that in your conversations preparing to testify</p> <p>2 about the Veterans Health Administration</p> <p>3 Recruitment Marketing and Advertising Campaign,</p> <p>4 no one identified for you any specific ad tech</p> <p>5 that was used in connection with that campaign?</p> <p>6 MR. CARMAN: Object to form.</p> <p>7 THE WITNESS: Unless you would</p> <p>8 consider something like LinkedIn or Facebook or</p> <p>9 Twitter an ad tech product, which was</p> <p>10 identified specifically to this.</p> <p>11 BY MS. MORGAN:</p> <p>12 Q. Would you consider those to be ad</p> <p>13 tech products?</p> <p>14 MR. CARMAN: Object to form.</p> <p>15 THE WITNESS: I mean, I think an</p> <p>16 argument can be made since you're buying them</p> <p>17 directly from there.</p> <p>18 BY MS. MORGAN:</p> <p>19 Q. And when we were talking about the</p> <p>20 District Communications Group, we talked about</p> <p>21 the transfer of funds between the District</p> <p>22 Communications Group, the Office of Public</p>	<p>1 purchased from Google in connection with the</p> <p>2 Veterans Health Administration Recruitment</p> <p>3 Marketing and Advertising Campaign?</p> <p>4 MR. CARMAN: Object to form and</p> <p>5 foundation.</p> <p>6 THE WITNESS: As I recall, yes.</p> <p>7 BY MS. MORGAN:</p> <p>8 Q. From where at Google is that media</p> <p>9 purchased?</p> <p>10 MR. CARMAN: Object to form and</p> <p>11 foundation.</p> <p>12 THE WITNESS: I don't think that was</p> <p>13 specified.</p> <p>14 BY MS. MORGAN:</p> <p>15 Q. Are there particular tools at Google</p> <p>16 that are used to purchase media for the</p> <p>17 Veterans Health Administration Recruitment</p> <p>18 Marketing and Advertising Campaign?</p> <p>19 MR. CARMAN: Object to form and</p> <p>20 foundation.</p> <p>21 THE WITNESS: I don't recall that</p> <p>22 being discussed.</p>

HIGHLY CONFIDENTIAL

<p style="text-align: right;">Page 34</p> <p>1 BY MS. MORGAN:</p> <p>2 Q. If media is bought from Google in</p> <p>3 connection with the Veterans Health</p> <p>4 Administration Recruitment Marketing and</p> <p>5 Advertising Campaign, does the Veterans Health</p> <p>6 Administration pay for that media through a</p> <p>7 middleman?</p> <p>8 MR. CARMAN: Object to form and</p> <p>9 foundation. Calls for a legal conclusion.</p> <p>10 THE WITNESS: I would not call it a</p> <p>11 middleman. Advertising is being secured</p> <p>12 through a contract.</p> <p>13 BY MS. MORGAN:</p> <p>14 Q. Does the Office of Public -- of</p> <p>15 the -- sorry.</p> <p>16 Does the Office of the VHA transfer</p> <p>17 or move funds into Google without a middleman?</p> <p>18 MR. CARMAN: Objection. Form.</p> <p>19 Foundation. Calls for a legal conclusion.</p> <p>20 THE WITNESS: Money for paid media</p> <p>21 is moved through a representative of the United</p> <p>22 States Government under the bounds of a</p>	<p style="text-align: right;">Page 36</p> <p>1 A. Okay. Yes.</p> <p>2 Q. Is there a shorter way that we can</p> <p>3 agree to refer to that campaign that will make</p> <p>4 sense to you?</p> <p>5 A. ChooseVA will be acceptable.</p> <p>6 Q. Okay. I'm going to refer to -- I'm</p> <p>7 going to say ChooseVA, but I'm going to be</p> <p>8 referring to that whole description I just gave</p> <p>9 you. Do you understand?</p> <p>10 A. I do.</p> <p>11 Q. What did you do to prepare to</p> <p>12 testify about ChooseVA?</p> <p>13 A. I talked to Gary Tallman and Lyndon</p> <p>14 Johnson in the Office of Public and</p> <p>15 Intergovernmental Affairs.</p> <p>16 Q. Is the ChooseVA campaign with --</p> <p>17 does the ChooseVA campaign fall under the</p> <p>18 umbrella of the Office of Public --</p> <p>19 A. And Intragovernmental Affairs.</p> <p>20 Q. Office of Public what?</p> <p>21 A. And Intragovernmental Affairs.</p> <p>22 Q. Intergovernmental Affairs?</p>
<p style="text-align: right;">Page 35</p> <p>1 legally-binding contract.</p> <p>2 BY MS. MORGAN:</p> <p>3 Q. Is the representative of the United</p> <p>4 States Government you are referring to Aptive</p> <p>5 Resources LLC?</p> <p>6 A. Yes, in this specific instance.</p> <p>7 Q. Yes, I am asking specifically about</p> <p>8 this campaign.</p> <p>9 A. Workhorse, yeah.</p> <p>10 Q. Did you prepare to testify today</p> <p>11 about the ChooseVA outreach and strategic</p> <p>12 communications campaigns to expand awareness of</p> <p>13 VA resources and support recruitment and</p> <p>14 employee retention efforts?</p> <p>15 A. Yes.</p> <p>16 Q. Will you -- will you --</p> <p>17 A. Can you say that again.</p> <p>18 Q. Did you prepare to testify today</p> <p>19 about the ChooseVA outreach and strategic</p> <p>20 communications campaigns to expand awareness of</p> <p>21 VA resources and support recruitment and</p> <p>22 employee retention efforts?</p>	<p style="text-align: right;">Page 37</p> <p>1 A. I think it's intra.</p> <p>2 Q. Intra.</p> <p>3 Does the ChooseVA campaign fall</p> <p>4 within that office?</p> <p>5 A. Yes.</p> <p>6 Q. Did you talk to the contracting</p> <p>7 officer for that campaign?</p> <p>8 A. I don't recall that she was the</p> <p>9 contracting -- I talked to a contracting</p> <p>10 officer. I don't recall that she was the exact</p> <p>11 contracting officer for that campaign. I -- I</p> <p>12 think she was.</p> <p>13 Q. Okay. And what's her name?</p> <p>14 A. Lindi, L-I-N-D-I, Johnson. I don't</p> <p>15 recall her exact name. I -- yeah.</p> <p>16 Q. Okay. Does Aptive Resources do any</p> <p>17 work in connection with the ChooseVA campaign?</p> <p>18 A. Yes.</p> <p>19 Q. What does Aptive Resources do in</p> <p>20 connection with the ChooseVA campaign?</p> <p>21 A. They provide strategic communication</p> <p>22 services for that office.</p>

HIGHLY CONFIDENTIAL

Page 38	Page 40
<p>1 Q. Did you review the contract under</p> <p>2 which those services are provided?</p> <p>3 A. I don't remember or recall that</p> <p>4 contract.</p> <p>5 Q. Do you know if it's a firm, fixed --</p> <p>6 firm-fixed-price contract?</p> <p>7 A. It's highly likely that it's a</p> <p>8 firm-fixed-price contract.</p> <p>9 Q. When you say "it's highly likely,"</p> <p>10 do you just mean that you don't specifically</p> <p>11 remember?</p> <p>12 MR. CARMAN: Object.</p> <p>13 Mischaracterizes his testimony.</p> <p>14 THE WITNESS: It is.</p> <p>15 BY MS. MORGAN:</p> <p>16 Q. In connection with the ChooseVA</p> <p>17 campaign, does Aptive Resources develop media</p> <p>18 plans for that campaign?</p> <p>19 A. Yes.</p> <p>20 Q. Does Aptive Resources purchase media</p> <p>21 for that campaign?</p> <p>22 A. Aptive Resources secures paid media</p>	<p>1 recalled. You said Google specifically. Not</p> <p>2 that they were aware of.</p> <p>3 BY MS. MORGAN:</p> <p>4 Q. Did they recall any other ad tech</p> <p>5 tools that are used to secure paid media for</p> <p>6 the ChooseVA outreach?</p> <p>7 MR. CARMAN: Object to form and</p> <p>8 foundation.</p> <p>9 THE WITNESS: I think they</p> <p>10 referenced again Facebook or Instagram or</p> <p>11 things like that.</p> <p>12 BY MS. MORGAN:</p> <p>13 Q. Do you know whether the ChooseVA</p> <p>14 outreach campaign uses banner ads?</p> <p>15 A. I think they do.</p> <p>16 Q. Do you know whether the Veterans</p> <p>17 Health Administration Recruitment Marketing and</p> <p>18 Advertising campaign uses banner ads?</p> <p>19 A. I think occasionally they do.</p> <p>20 Q. Why do you say occasionally for that</p> <p>21 one?</p> <p>22 A. I think they do, yes.</p>
Page 39	Page 41
<p>1 advertisements under the guidance and approval</p> <p>2 of the program managers for that program.</p> <p>3 Q. Does Aptive --</p> <p>4 MR. CARMAN: For the record I wanted</p> <p>5 to object to the last question. Sorry.</p> <p>6 BY MS. MORGAN:</p> <p>7 Q. Does Aptive Resources secure paid</p> <p>8 media for the ChooseVA campaign from Google?</p> <p>9 MR. CARMAN: Again, object to form</p> <p>10 and foundation to the last two questions.</p> <p>11 THE WITNESS: Under the guidance and</p> <p>12 under the boundaries of the contract and at the</p> <p>13 direction of the program manager and the</p> <p>14 contracting officer's representative, yes.</p> <p>15 BY MS. MORGAN:</p> <p>16 Q. What -- does it use any -- does</p> <p>17 it -- does it secure paid media through any</p> <p>18 Google ad tech tools?</p> <p>19 MR. CARMAN: Object to form and</p> <p>20 foundation.</p> <p>21 THE WITNESS: Not that the two</p> <p>22 individuals I referenced that I spoke to</p>	<p>1 Q. For -- do you know whether the</p> <p>2 Airborne Hazards and Open Burn Pit Registry</p> <p>3 campaign uses banner ads?</p> <p>4 A. I don't recall.</p> <p>5 Q. Do you know where the banner ads</p> <p>6 that are used in the Veterans Health</p> <p>7 Administration Recruitment Marketing and</p> <p>8 Advertising campaign appear?</p> <p>9 A. Specifically?</p> <p>10 Q. Or generally. Just what do you know</p> <p>11 about it based on your prep?</p> <p>12 A. Banner badge ads. Again, this was</p> <p>13 workforce management.</p> <p>14 Q. Veterans Health Administration</p> <p>15 Recruitment Marketing --</p> <p>16 A. Yeah.</p> <p>17 Q. -- and Advertising campaign?</p> <p>18 A. As Darren mentioned and I mentioned</p> <p>19 at the beginning of talking about him, they</p> <p>20 follow audiences, and so stating specifically</p> <p>21 where a banner ad would appear would be, from</p> <p>22 my perspective, almost impossible.</p>

HIGHLY CONFIDENTIAL

<p style="text-align: right;">Page 54</p> <p>1 BY MS. MORGAN:</p> <p>2 Q. Well, I am just trying to understand</p> <p>3 why you're -- why you're referencing American</p> <p>4 Express. But let me ask the question a</p> <p>5 different way.</p> <p>6 A. Because you're asking about transfer</p> <p>7 of funds.</p> <p>8 MR. CARMAN: I don't think there is</p> <p>9 a pending question.</p> <p>10 BY MS. MORGAN:</p> <p>11 Q. I am -- what I am trying to</p> <p>12 understand is whether funds are transferred --</p> <p>13 well, let me ask this: Does Google invoice --</p> <p>14 send an invoice to the Office of Mental Health</p> <p>15 and Suicide Prevention for paid media purchased</p> <p>16 for suicide prevention campaigns?</p> <p>17 MR. CARMAN: Object to form.</p> <p>18 THE WITNESS: No.</p> <p>19 BY MS. MORGAN:</p> <p>20 Q. Does the Office of Mental Health and</p> <p>21 Suicide Prevention pay for services that are</p> <p>22 never invoiced?</p>	<p style="text-align: right;">Page 56</p> <p>1 understand me to mean the full description I</p> <p>2 just read. Can we agree on that?</p> <p>3 A. Yes.</p> <p>4 Q. What did you do to prepare to</p> <p>5 testify about the Lethal Means campaigns?</p> <p>6 A. I spoke to a representative from the</p> <p>7 suicide prevention program.</p> <p>8 Q. Who did you speak to?</p> <p>9 A. Dr. Todd Burnett and Juliana</p> <p>10 Hallows.</p> <p>11 Q. Are those the same two people you</p> <p>12 spoke to in connection with the suicide</p> <p>13 prevention campaigns?</p> <p>14 A. Yes.</p> <p>15 Q. Are the Lethal Means campaigns also</p> <p>16 under the umbrella of the Office of Mental</p> <p>17 Health and Suicide Prevention?</p> <p>18 A. Yes.</p> <p>19 Q. Are you familiar with an entity</p> <p>20 called Trilogy Federal, LLC?</p> <p>21 A. To a limited extent.</p> <p>22 Q. What is Trilogy Federal based on</p>
<p style="text-align: right;">Page 55</p> <p>1 MR. CARMAN: Object to form.</p> <p>2 THE WITNESS: Can you repeat that.</p> <p>3 BY MS. MORGAN:</p> <p>4 Q. Yeah. Would the Office of Mental</p> <p>5 Health and Suicide Prevention ever just</p> <p>6 transfer money to a company if it did not</p> <p>7 receive an invoice from that company?</p> <p>8 MR. CARMAN: Object to form.</p> <p>9 THE WITNESS: I mean, that's a very</p> <p>10 hypothetical. I'm going to -- no. No.</p> <p>11 BY MS. MORGAN:</p> <p>12 Q. Did you prepare to testify today</p> <p>13 about campaigns to promote use of secure</p> <p>14 storage for firearms to prevent suicide</p> <p>15 including but not limited to Keep It Secure and</p> <p>16 Lethal Means Safety?</p> <p>17 A. Yes.</p> <p>18 Q. If I refer to that group of</p> <p>19 campaigns as firearm --</p> <p>20 A. Lethal Means.</p> <p>21 Q. Lethal Means. Okay. I will refer</p> <p>22 to that as Lethal Means, and you will</p>	<p style="text-align: right;">Page 57</p> <p>1 your understanding?</p> <p>2 A. A service, disabled veteran-owned</p> <p>3 small business that provides strategic</p> <p>4 communication service.</p> <p>5 Q. Does Trilogy Federal provide</p> <p>6 strategic communication services in connection</p> <p>7 with the Lethal Means campaigns?</p> <p>8 A. Yes.</p> <p>9 Q. Is there a contract between Trilogy</p> <p>10 Federal and the Office of Mental Health and</p> <p>11 Suicide Prevention that covers that, those</p> <p>12 campaigns?</p> <p>13 A. Currently?</p> <p>14 Q. Yes.</p> <p>15 A. Not that I'm aware of.</p> <p>16 Q. Was there a prior contract between</p> <p>17 Trilogy Federal and the Office of Mental Health</p> <p>18 and Suicide Prevention that covered Lethal</p> <p>19 Means campaigns?</p> <p>20 A. Yes.</p> <p>21 Q. Do you know when that contract -- if</p> <p>22 that contract has expired?</p>

15 (Pages 54 - 57)

HIGHLY CONFIDENTIAL

<p style="text-align: right;">Page 58</p> <p>1 A. I do not.</p> <p>2 Q. Do you know why there is no longer a</p> <p>3 contract in place between Trilogy Federal and</p> <p>4 Lethal Means?</p> <p>5 MR. CARMAN: Object to form.</p> <p>6 BY MS. MORGAN:</p> <p>7 Q. Do you know why there is no longer a</p> <p>8 contract in place between Trilogy Federal and</p> <p>9 the Office of Mental Health and Suicide</p> <p>10 Prevention in connection with the lethal means</p> <p>11 campaign?</p> <p>12 A. That program is looking to</p> <p>13 consolidate and refine how it does contracting.</p> <p>14 Q. Does that mean they're using a</p> <p>15 different contractor?</p> <p>16 A. Or attempting to create a new</p> <p>17 contract.</p> <p>18 Q. Did you review the preexisting</p> <p>19 contract between Trilogy Federal and the Office</p> <p>20 of Mental Health and Suicide Prevention that</p> <p>21 covers the Lethal Means campaigns?</p> <p>22 MR. CARMAN: Object to form.</p>	<p style="text-align: right;">Page 60</p> <p>1 MR. CARMAN: Same objection.</p> <p>2 THE WITNESS: As I recall, that</p> <p>3 contract, yes, authorized that entity to</p> <p>4 purchase paid media under the direction of the</p> <p>5 government.</p> <p>6 BY MS. MORGAN:</p> <p>7 Q. Do you know if banner ads were</p> <p>8 included in the paid media purchased for the</p> <p>9 Lethal Means campaigns?</p> <p>10 MR. CARMAN: Object to form.</p> <p>11 THE WITNESS: To the -- I think so.</p> <p>12 I'm not entirely sure. I think they were.</p> <p>13 BY MS. MORGAN:</p> <p>14 Q. Do you know where those banner ads</p> <p>15 appeared?</p> <p>16 A. This would have been similar to all</p> <p>17 the other campaigns we have spoken of. They</p> <p>18 would have, you know, targeted at-risk veterans</p> <p>19 and would have looked for mechanisms to get</p> <p>20 those ads in places where they thought they</p> <p>21 would do the most good, you know.</p> <p>22 Q. Does Trilogy Federal invoice the</p>
<p style="text-align: right;">Page 59</p> <p>1 THE WITNESS: Yes.</p> <p>2 BY MS. MORGAN:</p> <p>3 Q. Do you know whether that was a</p> <p>4 firm-fixed-price contract?</p> <p>5 A. Yes.</p> <p>6 Q. Do you know whether that contract</p> <p>7 directed Trilogy Federal to develop media plans</p> <p>8 for the Lethal Means campaigns?</p> <p>9 A. As I recall, yes.</p> <p>10 Q. Do you know whether that contract</p> <p>11 directed Trilogy Federal to purchase media to</p> <p>12 support the campaign -- the Lethal Means</p> <p>13 campaigns?</p> <p>14 MR. CARMAN: Object to form.</p> <p>15 THE WITNESS: Can you repeat the</p> <p>16 question.</p> <p>17 BY MS. MORGAN:</p> <p>18 Q. Yeah. Do you know whether the</p> <p>19 contract between Trilogy Federal and the Office</p> <p>20 of Mental Health and Suicide Prevention</p> <p>21 directed Trilogy Federal to secure paid media</p> <p>22 for the Lethal Means campaigns?</p>	<p style="text-align: right;">Page 61</p> <p>1 Office of Mental Health and Suicide Prevention</p> <p>2 for paid media that is purchased in connection</p> <p>3 with the Lethal Means campaigns?</p> <p>4 MR. CARMAN: Object to form.</p> <p>5 THE WITNESS: Yes.</p> <p>6 BY MS. MORGAN:</p> <p>7 Q. Does the Office of Mental Health and</p> <p>8 Suicide Prevention pay those invoices?</p> <p>9 MR. CARMAN: Object to form.</p> <p>10 THE WITNESS: Yes.</p> <p>11 BY MS. MORGAN:</p> <p>12 Q. Do you know if Trilogy Federal uses</p> <p>13 Google to secure paid media for the Lethal</p> <p>14 Means campaigns?</p> <p>15 MR. CARMAN: Object to form.</p> <p>16 THE WITNESS: I do not.</p> <p>17 BY MS. MORGAN:</p> <p>18 Q. Did you ask anyone if the Lethal</p> <p>19 Means campaigns -- if media -- paid media is</p> <p>20 secured through Google in connection with the</p> <p>21 Lethal Means campaigns?</p> <p>22 MR. CARMAN: Object to form.</p>

16 (Pages 58 - 61)

HIGHLY CONFIDENTIAL

Page 62	Page 64
<p>1 THE WITNESS: We asked specifically</p> <p>2 about ad tech products, and again, they did not</p> <p>3 have a strong understanding of the ad tech</p> <p>4 product but mentioned that they give direction</p> <p>5 on goals and what they would like to achieve.</p> <p>6 And the contractor then uses that to</p> <p>7 create recommendations that everyone agrees</p> <p>8 upon, and then those ads are placed in places</p> <p>9 that will achieve those goals.</p> <p>10 BY MS. MORGAN:</p> <p>11 Q. When you spoke to people about the</p> <p>12 Lethal Means campaigns, did anyone name any ad</p> <p>13 tech product to you that is used to purchase</p> <p>14 paid media for the Lethal Means campaign?</p> <p>15 MR. CARMAN: Object to form.</p> <p>16 THE WITNESS: Again, they would have</p> <p>17 referenced maybe some platforms that could also</p> <p>18 be, you know, argued as being ad tech</p> <p>19 platforms. So I would say possibly.</p> <p>20 BY MS. MORGAN:</p> <p>21 Q. Do you know whether DV360 is used to</p> <p>22 purchase paid media for the Lethal Means</p>	<p>1 A. That was the Veterans Crisis Line,</p> <p>2 Suicide Prevention Line, there was a couple</p> <p>3 others.</p> <p>4 Q. Yeah. It was Veterans Crisis Line,</p> <p>5 be there more than ever before, reach and</p> <p>6 prevent.</p> <p>7 A. I think they were likely used at</p> <p>8 some point during the length of all of those</p> <p>9 efforts.</p> <p>10 Q. Do you know whether banner ads are</p> <p>11 still used today in connection with any of</p> <p>12 those campaigns?</p> <p>13 A. Most of those campaigns have been</p> <p>14 sunsetted for other things, like, lethal means</p> <p>15 -- other than the crisis line, and I think, you</p> <p>16 know, what they use varies. I think they do</p> <p>17 use some banner ads.</p> <p>18 Be there, reach, prevents, no longer</p> <p>19 exists.</p> <p>20 Q. Did you do any preparation to</p> <p>21 testify about general mental health and suicide</p> <p>22 prevention awareness in education outreach</p>
Page 63	Page 65
<p>1 campaign?</p> <p>2 MR. CARMAN: Object to form.</p> <p>3 THE WITNESS: I would have to look</p> <p>4 at an invoice. I -- I would feel semiconfident</p> <p>5 saying that it likely is.</p> <p>6 BY MS. MORGAN:</p> <p>7 Q. Do you know if Google issues an</p> <p>8 invoice to the Office of Mental Health and</p> <p>9 Suicide Prevention for any, media that is</p> <p>10 secured for the lethal means campaign using</p> <p>11 Google products?</p> <p>12 MR. CARMAN: Object to form.</p> <p>13 THE WITNESS: Google would not</p> <p>14 invoice the United States Government that I am</p> <p>15 aware of, and I am not aware of the Department</p> <p>16 of Veterans Affairs having a contract directly</p> <p>17 with Google.</p> <p>18 BY MS. MORGAN:</p> <p>19 Q. We talked earlier about the suicide</p> <p>20 prevention campaign. Do you know whether</p> <p>21 banner ads are a part of the suicide prevention</p> <p>22 campaign?</p>	<p>1 support services campaign, to reduce the stigma</p> <p>2 associated with mental health conditions,</p> <p>3 increase mental health literacy and connect</p> <p>4 veterans with VA mental healthcare?</p> <p>5 A. No.</p> <p>6 Q. Did you not prepare to testify on</p> <p>7 that subject because that is within the scope</p> <p>8 of your ordinary course of business in your</p> <p>9 job?</p> <p>10 A. Yes, ma'am.</p> <p>11 Q. You testified in your 30(b)(1)</p> <p>12 deposition that Reingold is a contractor that</p> <p>13 provides communication services for those</p> <p>14 campaigns.</p> <p>15 Do you remember that?</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. Does Reingold invoice -- well, does</p> <p>18 Reingold provide media planning services for</p> <p>19 those campaigns?</p> <p>20 A. Reingold creates media plans, along</p> <p>21 with the -- the VA employees that are then, you</p> <p>22 know, deliberated and discussed and then</p>

HIGHLY CONFIDENTIAL

Page 66	Page 68
<p>1 eventually approved.</p> <p>2 Q. Does Reingold secure a paid media</p> <p>3 for the general mental health campaigns?</p> <p>4 MR. CARMAN: Objection. Form.</p> <p>5 Foundation.</p> <p>6 BY MS. MORGAN:</p> <p>7 Q. Do you understand what I mean when I</p> <p>8 say "general mental health campaign"?</p> <p>9 A. Yes, the big long title you</p> <p>10 referenced earlier, yes, ma'am.</p> <p>11 Reingold, under the direction of the</p> <p>12 government, within the boundaries of the</p> <p>13 contract, secures paid media in accordance with</p> <p>14 an approved paid media plan at the direction of</p> <p>15 the government.</p> <p>16 Q. Does Reingold invoice the Office of</p> <p>17 Mental Health and Suicide Prevention for media</p> <p>18 that it secures in connection with general</p> <p>19 mental health campaigns?</p> <p>20 MR. CARMAN: Objection to form.</p> <p>21 THE WITNESS: Yes.</p> <p>22 BY MS. MORGAN:</p>	<p>1 a contract between Reingold and the Office of</p> <p>2 Mental Health and Suicide Prevention for the</p> <p>3 services provided by Reingold in connection</p> <p>4 with general mental health campaigns?</p> <p>5 A. Didn't we ask that at the beginning?</p> <p>6 Is there a contract between Reingold and the</p> <p>7 Office of Mental Health and Suicide Prevention</p> <p>8 for general mental health outreach and support</p> <p>9 services basically?</p> <p>10 Q. Yes.</p> <p>11 A. Yes, there is a contract between</p> <p>12 them.</p> <p>13 Q. Is that -- is that a</p> <p>14 firm-fixed-price contract?</p> <p>15 A. That is a firm-fixed-price contract.</p> <p>16 Q. All right. Sitting here today, do</p> <p>17 you know any Google products besides DV360 for</p> <p>18 which -- that have been used -- sorry.</p> <p>19 Sitting here today, do you know any</p> <p>20 Google products besides DV360 that have been</p> <p>21 used to secure paid media for any Department of</p> <p>22 Veterans Affairs' campaign that we just</p>
Page 67	Page 69
<p>1 Q. Does the Office of Mental Health and</p> <p>2 Suicide Prevention pay those invoices?</p> <p>3 MR. CARMAN: Object to form.</p> <p>4 THE WITNESS: Yes.</p> <p>5 BY MS. MORGAN:</p> <p>6 Q. Does Reingold use any Google</p> <p>7 products to secure paid media for general</p> <p>8 mental health campaigns?</p> <p>9 MR. CARMAN: Object to form.</p> <p>10 THE WITNESS: To the best of my</p> <p>11 knowledge, I think they use DV360.</p> <p>12 BY MS. MORGAN:</p> <p>13 Q. Does Google send an invoice directly</p> <p>14 to the Office of Mental Health and Suicide</p> <p>15 Prevention for the use of DV360 in securing</p> <p>16 paid media for mental health campaigns?</p> <p>17 MR. CARMAN: Object to form.</p> <p>18 THE WITNESS: No. The Office of</p> <p>19 Mental Health and Suicide Prevention does not</p> <p>20 receive invoices from Google.</p> <p>21 BY MS. MORGAN:</p> <p>22 Q. Is the contract between -- is there</p>	<p>1 discussed?</p> <p>2 MR. CARMAN: Object to form.</p> <p>3 THE WITNESS: I am not aware of any,</p> <p>4 no.</p> <p>5 BY MS. MORGAN:</p> <p>6 Q. Is it your understanding that the</p> <p>7 Department of Veterans Affairs has paid fees</p> <p>8 for ad tech services provided by Google through</p> <p>9 DV360?</p> <p>10 MR. CARMAN: Object to form.</p> <p>11 THE WITNESS: I have, in a limited</p> <p>12 capacity, I have seen invoices that include</p> <p>13 fees related to using DV360.</p> <p>14 BY MS. MORGAN:</p> <p>15 Q. Who sent those invoices?</p> <p>16 A. Those invoices were submitted to the</p> <p>17 Office of Mental Health and Suicide Prevention,</p> <p>18 by a contractor by Reingold and I think by</p> <p>19 Reingold.</p> <p>20 Q. Any other contractors?</p> <p>21 A. It was likely that Aptive and</p> <p>22 District Communications Group would have</p>

HIGHLY CONFIDENTIAL

Page 70	Page 72
<p>1 included listings for fees of DV360, but I</p> <p>2 can't be positive.</p> <p>3 Q. What is the amount of fees that the</p> <p>4 Department of Veterans Affairs has paid to</p> <p>5 Google for use of DV360 or other Google</p> <p>6 products to secure paid media?</p> <p>7 MR. CARMAN: Object to form.</p> <p>8 BY MS. MORGAN:</p> <p>9 Q. Sorry, let me strike the question.</p> <p>10 What is the amount of -- do you know</p> <p>11 what "open web display advertising" is?</p> <p>12 A. I would be hazarding a guess. I</p> <p>13 would not be able to give you an exact industry</p> <p>14 standard definition.</p> <p>15 Q. When did you first hear the term</p> <p>16 "open web display advertising"?</p> <p>17 MR. CARMAN: Objection to form.</p> <p>18 Also, I want to object that I believe this is</p> <p>19 outside of the scope of the deposition topics.</p> <p>20 MS. MORGAN: The topics cover the</p> <p>21 manners in which the Department of Veterans</p> <p>22 Affairs secures paid media.</p>	<p>1 Affairs have an understanding of what open web</p> <p>2 display advertising is?</p> <p>3 MR. CARMAN: Object to form.</p> <p>4 THE WITNESS: I think probably not.</p> <p>5 BY MS. MORGAN:</p> <p>6 Q. What is the amount of fees that the</p> <p>7 Department of Veterans Affairs has paid for use</p> <p>8 of DV360 or other Google products to secure</p> <p>9 paid media?</p> <p>10 A. I don't think that was a data point</p> <p>11 that was asked to be collected and that was --</p> <p>12 and during what period of time and under what</p> <p>13 contracts. I have no idea.</p> <p>14 Q. Do you know that the Department of</p> <p>15 Veterans Affairs is alleging money damages in</p> <p>16 this case for the fees that it has paid for use</p> <p>17 of DV360 or other Google products to secure</p> <p>18 paid media?</p> <p>19 MR. CARMAN: I object to the form of</p> <p>20 the question. The United States is making that</p> <p>21 allegation in this case.</p> <p>22 BY MS. MORGAN:</p>
Page 71	Page 73
<p>1 The Department of Veterans Affairs</p> <p>2 has alleged that it is damaged by paid media</p> <p>3 related to open web display advertising.</p> <p>4 MR. CARMAN: Okay. I made my</p> <p>5 objection. You can answer the question if you</p> <p>6 understand it.</p> <p>7 THE WITNESS: I -- I --</p> <p>8 MR. CARMAN: If you know.</p> <p>9 THE WITNESS: Yeah, I could not give</p> <p>10 you an exact day or date or time. I mean, a</p> <p>11 lot of it will just run across on Reddit.</p> <p>12 BY MS. MORGAN:</p> <p>13 Q. Do you think you ran across it on</p> <p>14 Reddit?</p> <p>15 A. Probably not.</p> <p>16 Q. Do you think you knew what open web</p> <p>17 display advertising was before this year?</p> <p>18 A. No.</p> <p>19 Q. In your 30(b)(1) testimony, you said</p> <p>20 that you were -- you did not know what open web</p> <p>21 display advertising was.</p> <p>22 Does the Department of Veterans</p>	<p>1 Q. Do you know that the United States</p> <p>2 is alleging that the Department of Veterans</p> <p>3 Affairs is entitled to money damages for fees</p> <p>4 that the Department of Veterans Affairs has</p> <p>5 paid for use of DV360 or other Google products</p> <p>6 to secure paid media?</p> <p>7 MR. CARMAN: Object to form.</p> <p>8 THE WITNESS: I am aware that the</p> <p>9 United States Government is trying to return --</p> <p>10 recapture, get refunded fees.</p> <p>11 BY MS. MORGAN:</p> <p>12 Q. As the representative of the</p> <p>13 Department of Veterans Affairs, sitting here</p> <p>14 today, you have no assessment of how much the</p> <p>15 fees are that the department has paid for use</p> <p>16 of DV360 or other Google products to secure</p> <p>17 paid media; is that right?</p> <p>18 MR. CARMAN: Object to the form of</p> <p>19 the question and mischaracterizes the</p> <p>20 testimony.</p> <p>21 I also want to object that this is</p> <p>22 outside the scope of the deposition topics.</p>

HIGHLY CONFIDENTIAL

<p style="text-align: right;">Page 74</p> <p>1 MS. MORGAN: We can address that off</p> <p>2 the record. I don't think that's right.</p> <p>3 BY MS. MORGAN:</p> <p>4 Q. We talked in your 30(b)(1)</p> <p>5 deposition about when you learned about the</p> <p>6 lawsuit that Google filed in the -- sorry,</p> <p>7 strike that.</p> <p>8 We talked in your 30(b)(1)</p> <p>9 deposition about when you personally learned</p> <p>10 about the lawsuit the Department of Justice</p> <p>11 filed against Google in the Eastern District of</p> <p>12 Virginia.</p> <p>13 Do you remember that?</p> <p>14 A. Yes.</p> <p>15 Q. I want to talk to you in your role</p> <p>16 as the representative of the Department of</p> <p>17 Veterans Affairs about when the Department of</p> <p>18 Veterans Affairs learned of that lawsuit.</p> <p>19 Do you know when that was?</p> <p>20 A. February of this year.</p> <p>21 Q. At the time that the Department of</p> <p>22 Veterans Affairs learned that the Department of</p>	<p style="text-align: right;">Page 76</p> <p>1 again and then you can make your objection</p> <p>2 again.</p> <p>3 BY MS. MORGAN:</p> <p>4 Q. Do you know if anyone from the</p> <p>5 Department of Justice spoke to anyone inside</p> <p>6 the Department of Veterans Affairs in advance</p> <p>7 of filing the lawsuit against Google in the</p> <p>8 Eastern District of Virginia?</p> <p>9 MR. CARMAN: Objection. Calls --</p> <p>10 objection. Because it seeks communications</p> <p>11 between attorneys at the Department of Justice</p> <p>12 and Veterans Administration and others, so I</p> <p>13 instruct you not to answer to the extent your</p> <p>14 answer would reveal communications between</p> <p>15 lawyers at the Department of Justice and</p> <p>16 individuals at the VA.</p> <p>17 BY MS. MORGAN:</p> <p>18 Q. Were you prepared to testify today</p> <p>19 about your involvement in -- the Department of</p> <p>20 Veterans Affairs' involvement in communications</p> <p>21 -- sorry, scratch that.</p> <p>22 Were you prepared to testify today</p>
<p style="text-align: right;">Page 75</p> <p>1 Justice had filed a lawsuit in the Eastern</p> <p>2 District of Virginia against Google, had that</p> <p>3 lawsuit already been filed?</p> <p>4 A. I don't know the specific date when</p> <p>5 the lawsuit was filed.</p> <p>6 Q. But in your prep for this deposition</p> <p>7 as the representative of the VA, you understand</p> <p>8 that they learned -- that the VA learned of the</p> <p>9 lawsuit in February?</p> <p>10 A. Correct.</p> <p>11 Q. Do you know if anyone from the</p> <p>12 Department of Justice spoke to anyone inside</p> <p>13 the Department of Veterans Affairs before</p> <p>14 filing the lawsuit?</p> <p>15 MR. CARMAN: So I object to the</p> <p>16 extent this calls for attorney-client</p> <p>17 communication and instruct you in your answer</p> <p>18 not to disclose any conversations between</p> <p>19 lawyers from the Department of Justice and the</p> <p>20 Veterans Administration.</p> <p>21 MS. MORGAN: I was not done asking</p> <p>22 the question, so I'm going to say the question</p>	<p style="text-align: right;">Page 77</p> <p>1 about the Department of Veterans Affairs, the</p> <p>2 circumstances that led to the Department of</p> <p>3 Veterans Affairs to be involved in the lawsuit,</p> <p>4 including any efforts that the Department of</p> <p>5 Veterans Affairs undertook to investigate the</p> <p>6 Department of Justice's claims?</p> <p>7 Were you prepared to testify about</p> <p>8 how the Department of Veterans Affairs got</p> <p>9 involved in the lawsuit today?</p> <p>10 MR. CARMAN: Objection as to form.</p> <p>11 THE WITNESS: I don't -- I don't</p> <p>12 understand the question.</p> <p>13 MS MORGAN: It's a topic that was</p> <p>14 agreed upon in this notice, that the Department</p> <p>15 of Veterans Affairs would testify about the</p> <p>16 circumstances that led the department to be</p> <p>17 involved in this lawsuit, and I understand you</p> <p>18 now to be saying that he can't testify on that</p> <p>19 topic because it's privileged. Am I right</p> <p>20 about that?</p> <p>21 MR. CARMAN: No, that is not -- that</p> <p>22 is not correct. He testified as to when the</p>

20 (Pages 74 - 77)

HIGHLY CONFIDENTIAL

<p style="text-align: right;">Page 78</p> <p>1 Veterans Administration learned of the lawsuit</p> <p>2 and that was an answer to your question about</p> <p>3 the circumstances that led VA to be involved in</p> <p>4 the lawsuit.</p> <p>5 BY MS. MORGAN:</p> <p>6 Q. Tell me everything you know that is</p> <p>7 not from a lawyer, about the circumstances that</p> <p>8 led the Department of Veterans Affairs to be</p> <p>9 involved in this lawsuit.</p> <p>10 MR. CARMAN: Okay. So I will have</p> <p>11 -- object again to attorney-client privilege.</p> <p>12 You can answer.</p> <p>13 THE WITNESS: I do not know anything</p> <p>14 other than what I have discussed with -- with</p> <p>15 lawyers related to the Department of Veterans</p> <p>16 Affairs being involved in this lawsuit.</p> <p>17 BY MS. MORGAN:</p> <p>18 Q. Is it the Department of Justice's</p> <p>19 position that the only responsive information</p> <p>20 to noticed Topic No. 30 is the date on which</p> <p>21 the Department of Veterans Affairs learned of</p> <p>22 the lawsuit?</p>	<p style="text-align: right;">Page 80</p> <p>1 dates of such conversation between DOJ and VA</p> <p>2 occurred, and the people involved in those</p> <p>3 conversations, but we will fall back on our</p> <p>4 objection or we will reiterate our objection</p> <p>5 about not disclosing the substance of those</p> <p>6 conversations or any attorney work product.</p> <p>7 And then with respect to Topic 26 in</p> <p>8 the notice, I wanted to put on the record that</p> <p>9 we have -- our understanding is, we have agreed</p> <p>10 with Google that questioning along this topic</p> <p>11 will be subject to our standing objection, that</p> <p>12 this topic is not an appropriate topic for a</p> <p>13 30(b)(6) inquiry, because the United States is</p> <p>14 going to rely on expert testimony to</p> <p>15 demonstrate these facts.</p> <p>16 MS. MORGAN: Understood. And</p> <p>17 Google, I think not surprisingly, does not</p> <p>18 agree with the Department of Justice's</p> <p>19 position, reserves all rights in that regard,</p> <p>20 but we understand how you want to proceed.</p> <p>21 MR. CARMAN: Thank you.</p> <p>22 BY MS. MORGAN:</p>
<p style="text-align: right;">Page 79</p> <p>1 MR. CARMAN: Before we answer that</p> <p>2 question, can I confer with my colleague.</p> <p>3 MS. MORGAN: Sure. Let's go off the</p> <p>4 record.</p> <p>5 MR. CARMAN: Okay.</p> <p>6 THE VIDEOGRAPHER: The time is</p> <p>7 p.m. We are off the record.</p> <p>8 (A short recess was taken.)</p> <p>9 THE VIDEOGRAPHER: The time is</p> <p>10 p.m. This begins Unit 2. We are on the</p> <p>11 record.</p> <p>12 MR. CARMAN: So following --</p> <p>13 following our break, I wanted to clarify two</p> <p>14 things. The first is that with regard to</p> <p>15 questions to Mr. South about -- sorry.</p> <p>16 This is -- Topic 30, the</p> <p>17 circumstances that led you, capital Y-O-U, to</p> <p>18 be involved in the lawsuit including any</p> <p>19 efforts you undertook to investigate your</p> <p>20 claim.</p> <p>21 The United States is taking the</p> <p>22 position that Mr. South can testify about the</p>	<p style="text-align: right;">Page 81</p> <p>1 Q. Mr. South, you testified that the</p> <p>2 Department of Veterans Affairs learned of the</p> <p>3 Department of Justice's lawsuit against Google</p> <p>4 in February of 2023.</p> <p>5 Do you remember that?</p> <p>6 A. Yes.</p> <p>7 Q. Do you know who was involved in that</p> <p>8 conversation from the Department of Veterans</p> <p>9 Affairs?</p> <p>10 A. I don't know about the initial</p> <p>11 communication that was made. There was a</p> <p>12 meeting established later that involved the</p> <p>13 Department of Justice and, you know, the</p> <p>14 Department of Veteran Affairs.</p> <p>15 It was during that same month,</p> <p>16 February 2023. I hadn't -- unfortunately, had</p> <p>17 some notes on this and I misplaced them, so</p> <p>18 some of the names I have are just going to be</p> <p>19 first names.</p> <p>20 From the VA, it was definitely</p> <p>21 Laura. And Jason Fergosa, F-E-R-G-O-S-A, I</p> <p>22 think. From the Department of Justice, I think</p>

HIGHLY CONFIDENTIAL

<div>Page 90</div> <div><div>1</div><div>the record that Google was informed last night</div><div>2</div><div>by the Department of Justice that there were</div><div>3</div><div>several thousand documents of Mr. South's that</div><div>4</div><div>were not produced in advance of this</div><div>5</div><div>deposition.</div><div>6</div><div>So we reserve the right to reopen</div><div>7</div><div>the deposition should that become necessary</div><div>8</div><div>based on the documents we reviewed.</div><div>9</div><div>I will also reserve the right to</div><div>10</div><div>reopen the deposition as necessary on the</div><div>11</div><div>topics on which Mr. South is not prepared to</div><div>12</div><div>testify, including certain campaigns that were</div><div>13</div><div>listed earlier in the deposition and whether</div><div>14</div><div>Google products were used in connection with</div><div>15</div><div>other campaigns.</div><div>16</div><div>And I am going to -- and also, I'll</div><div>17</div><div>reserve rights on the Court's determination</div><div>18</div><div>about standing privilege objection.</div><div>19</div><div>In other words, I will reserve the</div><div>20</div><div>balance of my time for after the department</div><div>21</div><div>asks any questions if it wants to do that.</div><div>22</div><div>MR. CARMAN: Okay. Can we take a</div></div>	<div>Page 92</div> <div><div>1</div><div>CERTIFICATE OF NOTARY PUBLIC</div><div>2</div><div>I, Bonnie L. Russo, the officer before</div><div>3</div><div>whom the foregoing deposition was taken, do</div><div>4</div><div>hereby certify that the witness whose testimony</div><div>5</div><div>appears in the foregoing deposition was duly</div><div>6</div><div>sworn by me; that the testimony of said witness</div><div>7</div><div>was taken by me in shorthand and thereafter</div><div>8</div><div>reduced to computerized transcription under my</div><div>9</div><div>direction; that said deposition is a true</div><div>10</div><div>record of the testimony given by said witness;</div><div>11</div><div>that I am neither counsel for, related to, nor</div><div>12</div><div>employed by any of the parties to the action in</div><div>13</div><div>which this deposition was taken; and further,</div><div>14</div><div>that I am not a relative or employee of any</div><div>15</div><div>attorney or counsel employed by the parties</div><div>16</div><div>hereto, nor financially or otherwise interested</div><div>17</div><div>in the outcome of the action.</div><div>18</div><div><div><div><div></div><div>Bonnie L. Russo</div></div></div></div><div>19</div><div>Notary Public in and for</div><div>20</div><div>the District of Columbia</div><div>21</div><div>My Commission expires: August 14, 2025.</div><div>22</div></div>																																			
<div>Page 91</div> <div><div>1</div><div>brief -- just a brief break?</div><div>2</div><div>MS. MORGAN: Of course.</div><div>3</div><div>MR. CARMAN: And then we will</div><div>4</div><div>resume. I don't think we even have to leave</div><div>5</div><div>the room. But we can go off the record.</div><div>6</div><div>THE VIDEOGRAPHER: The time is</div><div>7</div><div>p.m. Off the record.</div><div>8</div><div>(A short recess was taken.)</div><div>9</div><div>THE VIDEOGRAPHER: The time is</div><div>10</div><div>p.m. On the record.</div><div>11</div><div>MR. CARMAN: Okay. We just want to</div><div>12</div><div>say for the record that we don't agree that</div><div>13</div><div>there is a record in this deposition that</div><div>14</div><div>demonstrates that Mr. South was not prepared to</div><div>15</div><div>testify on any topic in the deposition notice,</div><div>16</div><div>and with that, we have no further questions.</div><div>17</div><div>MS. MORGAN: Great. I think we can</div><div>18</div><div>close the record.</div><div>19</div><div>THE VIDEOGRAPHER: The time is</div><div>20</div><div>p.m. Off the record.</div><div>21</div><div>(Whereupon, the proceeding was</div><div>22</div><div>concluded at 5:44 p.m.)</div></div>	<div>Page 93</div> <div><div>1</div><div>ACKNOWLEDGMENT OF DEPONENT</div><div>2</div><div>I, KOBY SOUTH, do hereby certify that I have</div><div>3</div><div>read the foregoing transcript of my testimony</div><div>4</div><div>taken on 8/31/23, and further certify that it</div><div>5</div><div>is a true and accurate record of my testimony</div><div>6</div><div>(with the exception of the corrections listed</div><div>7</div><div>below):</div><div>8</div><div><table><tr><th>Page</th><th>Line</th><th>Correction</th></tr><tr><td>9</td><td>_____</td><td>_____</td></tr><tr><td>10</td><td>_____</td><td>_____</td></tr><tr><td>11</td><td>_____</td><td>_____</td></tr><tr><td>12</td><td>_____</td><td>_____</td></tr><tr><td>13</td><td>_____</td><td>_____</td></tr><tr><td>14</td><td>_____</td><td>_____</td></tr><tr><td>15</td><td>_____</td><td>_____</td></tr><tr><td>16</td><td>_____</td><td>_____</td></tr><tr><td>17</td><td>_____</td><td>_____</td></tr><tr><td>18</td><td>_____</td><td>_____</td></tr></table></div><div>19</div><div>KOBY SOUTH</div><div>20</div><div>SUBSCRIBED AND SWORN TO BEFORE ME</div><div>21</div><div>THIS ____ DAY OF _____, 2023.</div><div>22</div><div><table><tr><td>(NOTARY PUBLIC)</td><td>MY COMMISSION EXPIRES:</td></tr></table></div><div>Job No. CS6074125</div></div>	Page	Line	Correction	9	_____	_____	10	_____	_____	11	_____	_____	12	_____	_____	13	_____	_____	14	_____	_____	15	_____	_____	16	_____	_____	17	_____	_____	18	_____	_____	(NOTARY PUBLIC)	MY COMMISSION EXPIRES:
Page	Line	Correction																																		
9	_____	_____																																		
10	_____	_____																																		
11	_____	_____																																		
12	_____	_____																																		
13	_____	_____																																		
14	_____	_____																																		
15	_____	_____																																		
16	_____	_____																																		
17	_____	_____																																		
18	_____	_____																																		
(NOTARY PUBLIC)	MY COMMISSION EXPIRES:																																			